

### **DETAILED ACTION**

1. This application claims benefit of the provisional application: 60/391,365 with a filing date 06/25/2002.
2. Amendment of claims 1, 3-4, cancellation of claims 2 and 5-6 and addition of claim 18 in the amendment filed on March 10, 2008 is acknowledged. Claims 1, 3-4 and 7-18 are pending in the application. No new matter has been found. Since the newly added claim 18 is commensurate within the scope of the invention. Claims 1, 3-4 and 7-18 are prosecuted in the case.

### ***EXAMINER'S AMENDMENT***

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Michael R. Williams on December 28, 2008. The application has been amended as follows:

In claim 1, line 2, delete "comprising an oxetane compound ", and insert --, prepared by reacting an oxetane compound and a phosphate ester of high acidity, --

In claim 1, line 2, after "said phosphate", insert

-- ester --

In claim 10, line 1, after "A process for", delete "decreasing the acidity of a phosphate ester", and insert

-- making a phosphate ester composition of low acidity according to claim 1, --

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

4. The rejection of claim 1, 3-4 and 7-9 under 35 U.S.C. 112, first paragraph, has been overcome in the amendment filed on March 10, 2008. Since claims 2 and 5-6 have been cancelled, the rejection of claims 2 and 5-6 under 35 U.S.C. 112, first paragraph has been obviated herein.
5. The rejection of claim 1, 3-4 and 7-9 under 35 U.S.C. 103(a) over Bright et al. US 5,041,596 has been overcome by above Examiner's amendment. Since claims 2 and 5-6 have been cancelled, the rejection of claims 2 and 5-6 under 35 U.S.C. 103(a) has been obviated herein.
6. Claims 1, 3-4, 7-9 and 18 are allowable. Claims 10-17 is previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement among inventions groups, as set forth in the Office action mailed on October 02, 2007, is hereby withdrawn** and claims 10-17 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the

Art Unit: 1626

withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 1, 3-4 and 7-18 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. The closest reference is Bright et al. US 5,041,596, which discloses formation of glycol bisphosphate compounds. The difference between the instant claims and Bright et al. is that the instant composition of claims 1 has not been found. A suggestion for modification of above reference to obtain the instant compositions has not been found. Claims 1, 3-4 and 7-18 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Rei-tsang Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/REI-TSANG SHIAO /

Rei-tsang Shiao, Ph.D.  
primary Patent Examiner  
Art Unit 1626

June 12, 2008